

HOUSE BILL 1643

By Dennis

AN ACT to amend Tennessee Code Annotated, Title 7,  
relative to public improvement districts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, is amended by adding Sections 2  
through 5 a new chapter:

SECTION 2.

7-91-101. This chapter shall be known and may be cited as the “Public  
Improvement District Act.”

7-91-102.

(a) The Legislature finds that there is a need for uniform, focused and fair  
procedures in state law to provide a reasonable alternative for the establishment,  
power, operation and duration of independent districts to manage and finance  
basic public improvement services; and that, based upon a proper and fair  
determination of applicable facts, an independent district can constitute a timely,  
efficient, effective, responsive and economic way to deliver these basic services,  
thereby providing a solution to the state’s planning, management and financing  
needs for delivery of capital infrastructure in order to service projected growth  
without overburdening counties and municipalities and their taxpayers.

(b) It is the intent of the general assembly in enacting this chapter:

(1) To authorize a uniform procedure to establish an independent  
special district as an alternative method to manage and finance basic  
services for public improvements through the levy and collection of  
special assessments;

(2) To provide for the uniform operation, exercise of power and procedure for termination of any such independent district;

(3) That a district created under this chapter not have or exercise any zoning or permitting power; and

(4) That no debt or obligation of a district shall constitute a burden on any local government without its consent.

7-91-103. As used in this chapter, unless the context requires otherwise:

(1) "Assessable improvements" means any public improvements and community facilities that the district is empowered to provide in accordance with this chapter;

(2) "Assessment bonds" means special obligations of the district that are payable solely from proceeds of the special assessments levied for an assessable project;

(3) "Assessed value" means value as assessed for municipal property tax purposes;

(4) "Board" or "board of directors" means the governing board of the district or, if such board has been abolished the board, the body or commission succeeding to the principal functions thereof or to whom the powers given to the board by this chapter have been transferred by law;

(5) "Bond" includes "certificate", and the provisions that are applicable to bonds are equally applicable to certificates. The term "bond" includes any assessment bond, refunding bond, revenue bond and other such obligation in the nature of a bond as is provided for in this chapter;

(6) "Cost," when used with reference to any project, includes, but is not limited to:

(A) The expenses of determining the feasibility or practicability of acquisition, construction or reconstruction;

(B) The cost of surveys, estimates, plans and specifications;

(C) The cost of improvements;

(D) Engineering, fiscal and legal expenses and charges;

(E) The cost of all labor, materials, machinery and equipment;

(F) The cost of all lands, rights, servitudes and franchises acquired;

(G) Financing charges;

(H) The creation of initial reserve and debt service funds;

(I) Working capital;

(J) Interest charges incurred or estimated to be incurred on money borrowed before and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine;

(K) The cost of issuance of bonds pursuant to this chapter, including advertisements and printing;

(L) The cost of all other expenses of issuance of bonds;

(M) The discount, if any, on the sale or exchange of bonds;

(N) Administrative expenses;

(O) Such other expenses as may be necessary or incidental to the acquisition, construction or reconstruction of any project or to the financing thereof, or to the development of any lands within the district;

(7) "District" means a public improvement district created pursuant to this chapter;

(8) "District manager" means the manager of the district;

(9) "District roads" means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges and thoroughfares of all kinds and descriptions;

(10) "Governing body" means:

(A) With respect to a municipality or county, the local legislative body; and

(B) With respect to a district, the board of directors;

(11) "Landowner" means the landowner in fee of land, including real property as it appears in the official records of the county, including a trustee, a private corporation, partnership, company or other entity, and any landowner of a condominium unit;

(12) "Municipality" means any incorporated city, town, metropolitan government, or county of this state, exercising general governmental functions in the state;

(13) "Owner" means the real property record owner in fee;

(14) "Plan" or "plan of improvement" means the detailed design plan of all proposed improvements in the district, including all such engineering studies, blueprints, architects' renderings, photographs, diagrams, maps, schematics, specifications, and drawings as may be required or desired to fully effectuate the construction, development, modernization and general improvement of public improvements and the purchase of equipment or other items;

(15) "Project" means any development, improvement, property, utility, facility, works, enterprise or service undertaken after July 1, 2011, or established under the provisions of this chapter;

(16) "Public improvement district" or "district" means a special district that is created pursuant to this chapter and limited to the performance of those

specialized functions authorized by this chapter, the boundaries of which are contained wholly within a single county or two (2) or more contiguous counties; the governing head of which is a body created, organized and constituted and authorized to function specifically as prescribed in this chapter for the delivery of public improvement services; and the formation powers, governing body, operation, duration accountability, requirements for disclosure and termination of which are as required by the general law;

(17) "Revenue bonds" means obligations of the district that are payable from revenues derived from sources other than ad valorem taxes on real or personal property and that do not pledge the property, credit or general tax revenue of the district;

(18) "Sewer system" means any plant, system, facility or property, and additions, extensions and improvements thereto, including any improvement necessary to connect a district to any existing plant, system, facility or property, useful or necessary in connection with the collection, treatment or disposal of sewage;

(19) "System" means any water system, sewer system, or any combination thereof, including any combined water and sewer system, consisting of an existing water system, combined with an existing sewer system, or consisting of an existing water system combined with a sewer system to be acquired, or consisting of an existing sewer system combined with a water system to be acquired, gas producing system, gas generating system, gas transmission system or gas distribution system, or any one (1) or all thereof, electric generating, transmission, or distribution system, garbage disposal system, rubbish disposal system, and incinerators, and all parts and appurtenances thereof;

(20) "Water management and control facilities" means any lakes, canals, ditches, reservoirs, dams, levees, floodways, pumping stations or any other works, structures or facilities, including any improvement necessary to connect a district to any existing work, structure or facility, for the conservation, control, development, utilization and disposal of water, and any purposes incidental thereto; and

(21) "Water system" means any plant system, facility or property, and additions, extensions, and improvements thereto, useful or necessary in connection with the development of sources, treatment or purification and distribution of water.

7-91-104.

(a) Parts 1-4 of this chapter are intended to afford alternative methods for the making or acquisition of improvements by a municipality, the creation of public improvement districts of the various municipalities, the levy of assessments and the issuance of bonds by municipalities, and shall not be so construed as to deprive any municipality of the right to make or acquire improvements, create special improvement districts, levy the assessments or other special taxes or issue bonds under authority of any other law of this state now in effect or hereafter enacted. Nevertheless, parts 1-4 of this chapter shall constitute full authority for the making or acquisition of improvements, creation of public improvement districts, levy of assessments and issuance of bonds under title 9, chapter 21, to the extent applicable, by such municipalities as act under parts 1-4 of this chapter.

(b) No act hereafter passed by the general assembly amending other acts relating to the same subject matter as covered by this chapter shall be construed to affect the authority to proceed under this chapter in the manner

provided in this chapter, unless such future act amends this chapter and specifically provides that it is to be applicable to proceedings taken and to bonds and other evidences of indebtedness issued under this chapter.

7-91-105. In any case where a notice is required by this chapter to be sent to the landowner of real property in the district, such notice shall be deemed sufficient if sent by U.S. mail to the last known address of the landowner. In any case where the governing body finds for any reason that due notice was not given, the governing body shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated, but the governing body, in that case, shall order due notice given and shall continue the proceeding until such time as notice shall be properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

7-91-106. Nothing in this chapter shall affect or impair the control and jurisdiction that a municipality has over all property within its boundaries. The powers and authority granted by this chapter shall be in addition to any and all other powers and authority now residing with, or hereafter granted to, municipalities in the State of Tennessee, and all powers granted in this chapter shall be subject to the general control and jurisdiction of such municipalities.

7-91-107.

(a) No public improvement district established under this chapter shall provide any public utility, as defined in § 65-4-101, to or for the public for compensation without first obtaining a certificate of public convenience and necessity from the Tennessee regulatory authority.

(b) Nothing contained in this section shall prohibit the Tennessee regulatory authority from issuing a certificate of public convenience and necessity to any person for service in uncertificated areas within public improvement district boundaries.

(c) Notwithstanding any law to the contrary, water and sewer districts that petition the Tennessee regulatory authority for a certificate of public convenience and necessity for any uncertificated area shall give written notice by regular mail to all property owners located in such area, as reflected on the tax rolls of the county or counties at the time of filing the petition, at the address listed on the tax rolls of the county or counties within such area, and to public improvement districts and other public entities located in such area. Such notice shall give the property owners and the governmental entities instructions on how they may appear before the Tennessee regulatory authority and make any objections or otherwise participate as an interested party.

7-91-108. This chapter, being necessary to secure and preserve the public health, safety, and general and economic welfare, shall be liberally construed to effect its purposes.

7-91-109. In the event of conflict between the provisions of this chapter and any other laws or parts of laws governing the statutes of this state, the provisions of this chapter shall govern.

### SECTION 3.

7-91-201. The governing body of any municipality located in this state is hereby authorized to create one (1) or more districts by ordinance in the manner provided in this part.

7-91-202.

(a) The organization of a district under this part shall be initiated by a petition for the establishment of a public improvement district that is filed by the petitioner with the clerk of the governing body of the municipality. The petition shall contain:

(1) A description of the boundaries of the district;



(2) The written consent to the establishment of the district by not less than a majority of the owners of the real property in the proposed district having an assessed value of not less than a majority of the assessed value of all the real property proposed to be included in the district;

(3) A designation of the initial members of the board of directors, who shall serve in that office until replaced by elected members as provided in this chapter;

(4) The proposed name of the district;

(5) A map of the proposed district showing existing infrastructure, if any; and

(6) Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services.

(b) Upon the filing of a petition the governing body shall order a public hearing to determine whether such a district shall be established. The hearing shall be held not less than thirty (30) nor more than forty-five (45) days following the filing of the petition with the governing body.

(c) The petitioners shall cause notice of the public hearing to be given by publishing a notice once a week for three (3) consecutive weeks in some newspaper of general circulation in the municipality where the district is proposed to be located. It shall not be necessary to set out in full in such notice the proposed ordinance establishing the public improvement district, but the notice shall state in summary detail those facts that are required to be included in the petition pursuant to subsection (a). The notice shall state the time and place of such public hearing, which shall be at least seven (7) days following the date of

publication of the third and final notice. The notice shall also be mailed to each landowner of real property within the proposed district as provided in § 7-91-105.

(d)

(1) At the time and place thus appointed, the governing body shall meet, and at such meeting, or at the time and place to which the meeting may be adjourned from time to time, all persons whose property may be affected by such improvement or improvements may appear in person, by attorney or by petition and protest against the creation of such public improvement district; and the governing body shall consider such objections and protests, if any, and may change the district boundaries or modify the proposal in such manner as may be deemed advisable by the governing body. At the conclusion of such public hearing, the governing body shall adopt, adopt as amended, or reject the organization of such district by the adoption or rejection of an ordinance setting out the district. In all such municipalities requiring two (2) or more readings before passage of an ordinance, all readings shall have been held prior to the public hearing, except the final such reading, so that the adoption may take place at the conclusion of such public hearing.

(2) Any person who fails to file a protest, who fails to appear at the public hearing to protest, or, having filed, withdraws such protest, shall be deemed to have waived any objection to the creation of the district, the making or acquisition of the improvements, and the inclusion of such person's property in the district. Such waiver, however, shall not preclude such person's right to object to the amount of the assessment at the hearing for which provision is made in § 7-91-218.

(e) Any ordinance establishing a public improvement district shall include the boundaries of the district, the names of the persons designated to be the initial members of the board of directors of the district and the name of the district.

(f) The petition requesting establishment of a public improvement district under this chapter may be filed by the petitioner with any municipality in which all or any part of the land within the proposed district is located.

(g) The governing body of any governmental entity, county or municipality may enter into contribution agreements with the district.

(h) After the filing of the petition, no petitioner shall be permitted to withdraw such petitioner's name from the petition.

(i) No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects. The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory, or in any other particular. Similar petitions for the organization of the same district may be filed and together shall be regarded as one (1) petition with the original. All such petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file.

(j) The owners of real property within a district may file a petition to amend an original petition with the governing body of the municipality in the same manner as is required to file an original petition. Owners who sign a petition to create a district may sign other petitions to create additional districts so long as they own real property within each of the districts proposed to be created.

7-91-203.

(a) The board of the district shall exercise the powers granted to the district pursuant to this chapter. The board shall consist of five (5) members; except as otherwise provided herein, each member shall hold office for a term of two (2) years or four (4) years, as provided in this section, and until a successor is chosen and qualifies. The members of the board must be residents of the state of Tennessee and citizens of the United States.

(b)

(1) Within ninety (90) days following the effective date of the ordinance establishing a district, there shall be held a meeting of the landowners of the district for the purpose of electing directors for the district. Notice of the landowners' meeting shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the area of the district, the last day of such publication to be not fewer than fourteen (14) days or more than twenty-eight (28) days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting. The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions.

(2) At such meeting, each landowner shall be entitled to cast one (1) vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. Each proxy must be signed by one (1) of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification

number; and the number of authorized votes. If the proxy authorizes more than one (1) vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as one (1) acre, entitling the landowner to one (1) vote with respect thereto. For purposes of determining voting interests, platted lots shall be counted individually and rounded up to the nearest whole acre. The acreage of platted lots shall not be aggregated for determining the number of voting units held by a landowner or a landowner's proxy.

(3) The three (3) candidates receiving the highest number of votes shall be elected for a period of four (4) years, and the remaining candidates receiving the next largest number of votes shall be elected for a period of two (2) years, with the term of office for each successful candidate commencing upon election.

(4) The members of the first board elected by landowners shall serve their respective four-year or two-year terms; however, the next election by landowners shall be held on the first Tuesday in November.

(5) Thereafter, there shall be an election of directors for the district every two (2) years in November on a date established by the board and for which notice must be given in the manner prescribed in subdivision (b)(1).

(6) The second and subsequent landowners' election shall be announced at a public meeting of the board at least thirty (30) days prior to the date of the landowners' meeting and for which notice must be given in the manner prescribed in subdivision (b)(1).

(7) After the initial election, then the position of any board member whose term is expiring shall be filled by a board member elected for a four-year term. The remaining board member whose term is expiring shall be elected for a four-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members shall be qualified electors elected by qualified electors of the district for a term of four (4) years.

(8) Instructions on how all landowners may participate in the election, along with sample proxies, shall be provided during the board meeting that announces the landowners' meeting.

(c) Members of the board shall be known as directors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by § 8-18-111. They shall hold office for the terms for which they were elected or appointed until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(d) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(e) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(f) The board shall keep a permanent record book in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to title 10, chapter 7. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located.

(g) Each director shall be entitled to receive for his or her services an amount not to exceed two hundred dollars (\$200) per meeting of the board of directors, not to exceed four thousand eight hundred dollars (\$4,800) per year, per director. In addition, each director shall receive travel and per diem expenses as provided in the rules and regulations promulgated from time to time by the commissioner of finance and administration pursuant to § 4-3-1008.

(h) All meetings of the board shall be open to the public and governed by the provisions of title 8, chapter 44.

7-91-204.

(a) The board shall employ and fix the compensation of a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible for:

(1) Preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this chapter;

(2) Maintaining and operating the equipment owned by the district;  
and

(3) Performing such other duties as may be prescribed by the board.

(b) The district manager may hire or otherwise employ and terminate the employment of such other persons including, without limitation, professional, directory and clerical employees, as may be necessary as authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board. The district manager, a board member or district employee may be a stockholder, officer or employee of a landowner.

(c) The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order of, or pursuant to the resolution of, the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the district shall be audited by an independent certified public accountant at least once a year.

(d) The board may select as a depository for its funds any qualified public depository as provided for under the Collateral Pool for Public Deposits Act of 1990, compiled in title 9, chapter 4, part 5.

7-91-205.

(a) A district shall comply with County Budgeting Law of 1957, compiled in title 5, chapter 12, part 1.

(b) At least sixty (60) days before adoption of the annual budget, the district board shall submit to the local governing authorities having jurisdiction



over the area included in the district for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations.

7-91-206. The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and to all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information who shall provide each prospective initial purchaser of property in that development with a copy.

7-91-207. The district shall have, and the board may exercise, the power:

- (1) To sue and be sued in the name of the district.
- (2) To adopt and use a seal and authorize the use of a facsimile thereof;
- (3) To acquire, by purchase, gift, devise or otherwise, and to dispose of, real and personal property;
- (4) To dedicate, donate or convey in any manner, real and personal property under such terms and conditions as may be agreed upon, to nonprofit entities that have been issued a certificate of public convenience and necessity by the Tennessee regulatory authority or governmental entities;
- (5) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers;
- (6) To contract for the services of consultants to perform planning, engineering, financial, legal, or other appropriate services of a professional nature;
- (7) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local

government or any person or any organization for any district purposes and enter into agreements required in connection therewith; and to hold, use and dispose of such monies or property for any district purposes in accordance with the terms of the gift, grant, loan or agreement relating thereto;

(8) To adopt bylaws prescribing the powers, duties and functions of the officers of the district, the conduct of the business of the district and the maintenance of records;

(9) To maintain an office at such place or places as it may designate within a county in which the district is located, which office must be reasonably accessible to the landowners. Meetings shall be held at such office or such other location as may be designated by the board;

(10) To hold, control and acquire by donation, or purchase or dispose of, any public servitudes or dedications to public use and to make use of such servitudes or dedications for any of the purposes authorized by this chapter;

(11) To lease as lessor or lessee to or from any person, firm, corporation, association, or body public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this chapter;

(12) To borrow money and issue bonds, certificates, warrants, notes or other evidence of indebtedness as provided in this chapter; to levy such special assessments as may be authorized; and to charge, collect and enforce fees and other user charges;

(13) To acquire property within the boundaries of the district for public use through condemnation, exercised pursuant to title 29, chapters 16 and 17, subject to the approval of the governing body of the county or the municipality that enacted the ordinance establishing the district, or both;

(14) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law;

(15) To cooperate with, contract, or enter into contribution agreements with, other governmental agencies, including the governing bodies of counties and municipalities, as may be necessary, convenient, incidental or proper in connection with any of the powers, duties or purposes authorized by this chapter;

(16) To determine, order, levy, impose, collect and enforce special assessments pursuant to this chapter;

(17) To enter into interlocal cooperative agreements; and

(18) To exercise all of the powers necessary and proper in connection with any of the powers, duties or purposes authorized by this chapter.

7-91-208.

(a) The district shall have, and the board may exercise, any or all of the special powers relating to public improvements and community facilities located in the district and authorized by this chapter.

(b) The district shall have the power to finance, fund, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities and basic infrastructures for the following:

(1) Water management and control for the lands within the district and connection of some or any of such facilities with roads and bridges;

(2) Water supply, sewer and wastewater management, reclamation and reuse, or any combination thereof;

(3) Bridges or culverts that may be needed across any drain, ditch canal, floodway, holding basin, excavation, public highway, tract, grade, fill or cut and roadways over levees and embankments;

(4) District roads equal to or exceeding the specifications of the county in which such district roads are located, and street lights;

(5) Parks and facilities for indoor and outdoor recreational, cultural and educational uses, and other tourism related infrastructure and facilities;

(6) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment;

(7) Security, except that the district may not exercise any police power, but may contract with the appropriate local governmental agencies for an increased level of such services within the district boundaries; and

(8) Waste collection and disposal.

(c) The district shall not have the power to construct schools.

7-91-209. No public improvement district may purchase, sell, dedicate, donate or convey in any manner, a water or wastewater utility that provides service to the public, or enter into a management contract for such facilities, until the board has made a determination that the purchase, sale or management contract is in the public interest.

7-91-210.

(a) The district may issue and sell from time to time bonds, notes, negotiable notes, tax anticipation notes, bond anticipation notes, other fund anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, certificates of participation, debentures, warrants, commercial paper or other obligations or evidences of indebtedness to provide funds for and to fulfill and achieve its public purpose or corporate purposes, as

set forth in this chapter, including, but not limited to, the payment of all or a portion of the costs of a project, to provide amounts necessary for any corporate purposes, including incidental expenses in connection with the issuance of the obligations, the payment of principal and interest on the obligations of the district, the establishment of reserves to secure such obligations, and all other purposes and expenditures of the district incident to and necessary or convenient to carry out its public functions or corporate purposes, and any credit enhancement for such obligations.

(b) Except as may otherwise be provided by the district, all obligations issued by the district shall be negotiable instruments and payable solely from the levy of any special assessment by the district or from any other sources whatsoever that may be available to the district but shall not be secured by the full faith and credit of the state or the county or municipality that created the district.

(c) Obligations shall be authorized, issued and sold by a resolution or resolutions of the district adopted as provided in this chapter. Such bonds or obligations may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including variable, adjustable, or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in § 9-21-126, be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption and be entitled to such priorities on the income, revenue and receipts of, or available to, the district as may be provided by the district in the resolution or resolutions providing for the issuance and sale of the bonds or obligations of the district.

(d) The obligations of the district shall be signed by such directors or officers of the district by either manual or facsimile signatures as shall be determined by resolution or resolutions of the district, and shall have impressed or imprinted thereon the seal of the district or a facsimile thereof.

(e) Any obligations of the district may be validly issued, sold and delivered notwithstanding that one or more of the directors or officers of the district signing such obligations or whose facsimile signature or signatures may be on the obligations shall have ceased to be such director or officer of the district at the time such obligations shall actually have been delivered.

(f) Obligations of the district may be sold in such manner and from time to time as may be determined by the district to be most beneficial, and the district may pay all expenses, premiums, fees or commissions that it deems necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of this chapter.

(g) The district may authorize the establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve or such other funds or reserves as the district may approve with respect to the financing and operation of any project and as may be authorized by any bond resolution, trust agreement, indenture of trust or similar instrument or agreement pursuant to the provisions of which the issuance of bonds or other obligations of the district may be authorized.

(h) Any cost, obligation or expense incurred for any of the purposes specified in this chapter shall be a part of the project costs and may be paid or reimbursed as such out of the proceeds of bonds or other obligations issued by the district.

(i) Neither the directors of the board nor any person executing the bonds shall be personally liable for the bonds or be subject to any personal liability by reason of the issuance thereof. No earnings or assets of the district shall accrue to the benefit of any private persons. However, the limitation of liability provided for in this subsection shall not apply to any gross negligence or criminal negligence on the part of any director or person executing the bonds.

(j) This chapter constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts or things by the board or any board, officers, commission, department, agency or instrumentality of the district, other than those required by this chapter, shall be required to perform anything under this chapter, except that the issuance or sale of bonds pursuant to the provisions of this chapter shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this chapter shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(k)

(1) As used in this subsection, "developer" means any entity or natural person which enters into an agreement with a district whereby the developer agrees to construct, operate and maintain or procure the construction, operation and maintenance of a project or projects, or portions thereof, upon land within the district.

(2) Before incurring any debt as provided in subsection (a), the district may, but shall not be required to, secure an agreement from one or more developers obligating such developer or developers:

(A) To effect the completion of all or any portion of a project at no cost to the district;

(B) To pay all or any portion of the real property taxes due on the project in a timely manner; and

(C) To maintain and operate all or any portion of the buildings or other facilities or improvements of the project in such a manner as to preserve property values.

(3) No breach of any such agreement shall impose any pecuniary liability upon a district or any charge upon its general credit or against its taxing powers.

(4) The district may enter into an agreement with the developer under which the developer may construct all or any part of the project with private funds in advance of issuance of bonds and may be reimbursed by the district for actual costs incurred by the developer upon issuance and delivery of bonds and receipt of the proceeds, conditioned upon dedication of the project by the developer to the district, a governmental agency, a county or a municipality to assure public use and access. Any such condition shall not apply to the privately owned portion of a project for which the Tennessee regulatory authority has issued a certificate of convenience and necessity.

7-91-211. Any pledge made by the district shall be valid and binding from time to time when the pledge is made without the need for physical delivery of any pledged property. The money, assets or revenues of the district so pledged and thereafter received by the district shall be immediately subject to the lien of such pledge and shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether such parties have notice thereof.



Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to establish and perfect a lien or security interest in the property so pledged by the district.

7-91-212. It is hereby determined that the creation of the district and the carrying out of its public functions and corporate purposes is, in all respects, a public and governmental purpose for the benefit of the people of the state and for the improvement of their health, safety, welfare, prosperity and security, that such functions and purposes are public purposes and that the district will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. All obligations authorized to be issued by the district pursuant to the provisions of this chapter, together with interest thereof, income therefrom, and gain upon the sale thereof shall be exempt from all state and local taxes.

7-91-213. Bonds issued under the provisions of this chapter shall be limited obligations of the district payable solely from the sources pledged for the payment thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the full faith and credit of the state nor the full faith and credit of any governmental unit of the state are pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this chapter shall not directly, indirectly or contingently obligate the state or any governmental unit of the state to levy any taxes or to make any appropriation for their payment arising out of contracts authorized under this chapter.

7-91-214. The state and all public officers, any county, municipality or other subdivision or instrumentality of the state, any political subdivision, any bank, banker, trust company, savings bank and institution, building and loan association, savings and loan association, investment company or any person carrying on a banking or investment business, any insurance company or business, insurance association and

any person carrying on an insurance business, any executor, administrator, curator, trustee and other fiduciary, and any retirement system fund may legally invest any sinking funds, monies or other funds belonging to them or within their control in any bonds or other obligations issued by the district pursuant to the provisions of this chapter, and such bonds or other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize such persons, firms, corporations, associations, political subdivisions and officers, or other entities public or private, to use any funds owned or controlled by them, including but not limited to sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations of the district and that any such bonds shall be authorized security for all public deposits. However, nothing contained in this section with regard to legal investments or security for public deposits shall be construed as relieving any such person, firm, corporation or other entity from any duty of exercising reasonable care in selecting securities.

7-91-215.

(a) The board shall annually determine, order and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects that are levied under this chapter. These assessments may be due and collected during each year county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the assessor by the board each year not later than the date referenced in § 67-5-510. Such assessments may be collected and enforced by the district manager. Alternatively, in the district's sole discretion, such assessments may be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to

the district. These benefit special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes. All statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(b) To maintain and preserve the facilities and projects of the district, the board shall levy a maintenance special assessment. This assessment may be evidenced by and certified to the assessor by the board each year not later than the date referenced in § 67-5-510 and shall be entered by the assessor on the county tax rolls and may be collected and enforced by the district manager. Alternatively, in the district's sole discretion, such assessments may be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes and all statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the maintenance special assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon the annual budget and assessed by the board upon such lands, which may be all of the lands within the

district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(c) Benefit special assessments and maintenance special assessments authorized by this section shall be levied and payable in annual installments for each year for which bonds secured by the assessment are outstanding. Such assessments may be collected and enforced by the district manager.

Alternatively, in the district's sole discretion, the tax collector may collect and enforce assessments in the same manner and at the same time as ad valorem taxes. Benefit special assessments and maintenance special assessments shall constitute a lien on the property against which assessed until paid and shall be on parity with the lien of state, county, municipal and school board property taxes.

(d) The tax assessor and tax collector are entitled to reasonable compensation for preparing the rolls and collecting the assessments not exceeding one percent (1%) of the assessments collected.

(e) District assessments may be made payable in no more than forty (40) yearly installments.

7-91-216. Any lien in favor of the district arising under this chapter may be enforced by the district in a court of competent jurisdiction as provided by law. Such proceedings may be brought at any time any tax or installment thereof becomes delinquent.

7-91-217. The district shall not be subject to title 12, chapter 3 regarding the construction of public works or the purchase of materials or supplies.

7-91-218.

(a) The district may prescribe, fix, establish and collect rates, fees, rentals or other charges for the facilities and services furnished by the district,

within the limits of the district, including but not limited to recreational facilities, water management and control facilities and water and sewer systems. The district may also recover the costs of making connection with any district facility or system and provide for reasonable penalties against any user or property for any such rates, fees, rentals or other charges that are delinquent.

(b) No such rates, fees, rentals or other charges for any of the facilities or services of the district may be fixed until after a public hearing at which all the users of the proposed facility or services shall have an opportunity to be heard concerning the proposed rates, fees, rentals or other charges. Notice of such public hearing setting forth the proposed schedule of rates, fees, rentals and other charges shall be published in the official journal of the district once at least ten (10) days before such public hearing.

7-91-219. The district shall provide by resolution with respect to nonpayment, delinquency charges and discontinuance of service for water and sewer services provided by the district.

7-91-220.

(a) The boundaries of the district may be contracted or expanded in the same manner in which the district was created pursuant to this chapter.

(b) The district may be terminated or dissolved in one of the following ways:

(1) The district may be terminated or dissolved upon the transfer of all the public improvement services of the district to a unit of local government. The district shall be terminated in accordance with a plan of termination which shall be adopted by the board of directors and filed with the clerk of the court;

(2) If, within five (5) years after the effective date of the ordinance creating the district, a landowner has not received a development permit on some part or all of the area covered by the district, then the district will be automatically dissolved and a court of competent jurisdiction shall cause a statement to that effect to be filed in the public records; or

(3) If the district has become inactive, the county or municipality that created the district shall be informed and shall take appropriate action.

(c) A district may not be dissolved if the district has outstanding any bonds, notes or other obligations payable solely from the special assessment revenues levied on the property within the district, and such dissolution may occur only at such time as all such indebtedness has been repaid in full.

7-91-221. After the establishment of a district under this chapter, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the district shall include, immediately before the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract:

“THE (Name of District) PUBLIC IMPROVEMENT DISTRICT MAY IMPOSE AND LEVY ASSESSMENTS ON THIS PROPERTY. THESE ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL

GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES  
AND ASSESSMENTS PROVIDED FOR BY LAW.”

7-91-222. Within thirty (30) days after the effective date of the ordinance establishing a public improvement district under this chapter, the district shall cause to be recorded in the land records in each county in which it is located a notice of establishment of the public improvement district. The notice shall include the legal description of the district and a copy of the disclosure statement specified in this chapter.

SECTION 4.

7-91-301. The governing body of any municipality of this state is hereby authorized to create one (1) or more districts in the manner provided in this part.

7-91-302.

(a) The organization of a district under this part shall be initiated either as provided in subsection (b) or:

(1) By a petition filed in the office of the clerk of the governing body of the municipality signed by not less than a majority in number of the owners of real property in the district having an assessed value of not less than a majority of the assessed value of all the real property proposed to be included in the district.

(2) After the filing of the petition, no petitioner shall be permitted to withdraw such petitioner's name from the petition.

(3) No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects. The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory, or in any other particular. Similar petitions for the organization of the same district may be filed and together shall be regarded as one (1) petition with the

original. All such petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file.

(4) The petition shall set forth:

(A) The name of the proposed district, together with the words, "Public Improvement District";

(B) A general description of the boundaries of the district or the territory to be included in the district, identified with sufficient certainty to enable a landowner to determine whether or not such landowner's property is within the district;

(C) The written consent to the establishment of a district as set forth above;

(D) A map of the proposed district showing existing infrastructure;

(E) A general description of the public improvements to be constructed or installed within and for the district;

(F) The estimated cost of the proposed improvements; and

(G) A statement that the petition is filed pursuant to the terms of this chapter.

(5) Any landowner of real property in a proposed district whose property would otherwise be exempt from any assessment under this chapter that signs the petition to create a district thereby agrees that its property in the proposed district shall be subject to the assessment to be levied within the district by the governing body of the municipality, and shall also be deemed to have created a lien against such organization's real property within the district as a means to enforce the collection of



said assessment in accordance with § 7-91-405, such agreement to run with the land and to be binding on any successor landowner of such real property.

(6) A petition that fully complies with the foregoing shall be subject to the approval of the governing body of the municipality.

(7) The owners of real property within a district may file a petition to amend an original petition with the governing body of the municipality in the same manner as is required to file an original petition. Owners who sign a petition to create a district may sign other petitions to create additional districts so long as they own real property within each of the districts proposed to be created.

(b) By the governing body of a municipality's adoption of a resolution containing the matters prescribed in subdivision (a)(4) for a petition.

7-91-303. Any district created by a municipality may embrace two (2) or more separate property areas. Each district shall be of such size and form as to include all properties that, in the judgment of the governing body, will be benefited by the improvement project or projects that are proposed to be made in or for such district, or by any portion or portions of such project. The jurisdiction of a municipality to make, finance, and assess the cost of any improvement project shall not be impaired by a lack of commonness, unity, or singleness of the location, purpose or character of the improvement or improvements, or by the fact that any one (1) or more of the properties included in the district does not benefit by such improvement or improvements, or by a particular portion of the improvement or improvements.

7-91-304. Upon the filing of a petition purporting to contain the requisite number of signatures, the governing body shall order a public hearing to determine whether such district shall be established. Such hearing shall be not less than thirty (30) nor more

than forty-five (45) days following the filing of a petition meeting the requirements of this chapter with the governing body.

7-91-305. Notice of the public hearing shall be given by publishing a notice once a week for three (3) consecutive weeks in a newspaper of general circulation in the municipality. It shall not be necessary to set out in full in such notice the proposed ordinance establishing the district, but such notice shall state in summary detail those facts required to be included in the petition. The notice shall state the time and place of such public hearing, which shall be at least seven (7) days following the date of publication of the final notice. Such notice shall also be given by mail to each landowner of real property within the proposed district.

7-91-306.

(a) At the time and place thus appointed, the governing body shall meet, and at such meeting, or at the time and place to which the meeting may be adjourned from time to time, all persons whose property may be affected by such improvement or improvements may appear in person, by attorney or by petition and protest against the creation of such district; and the governing body shall consider such objections and protests, if any, and may change the district boundaries or modify the proposal in such manner as may be deemed advisable by the governing body. At the conclusion of such public hearing, the governing body shall adopt, adopt as amended, or reject the organization of such district by the adoption or rejection of an ordinance establishing the district. In all such municipalities requiring two (2) or more readings before passage of an ordinance, all readings shall have been held prior to the public hearing, except the final such reading, so that the adoption may take place at the conclusion of such public hearing.

(b) Any landowner, or legal representative of a landowner, who fails to file a protest, who fails to appear at the public hearing to protest, or, having filed, withdraws such protest, shall be deemed to have waived any objection to the creation of the district, the making of the improvements, and the inclusion of such landowner's property in the district.

(c) A district may only be established by ordinance passed by a majority vote of the members of the governing body present and voting upon conclusion of the public hearing procedures as set forth in this chapter.

7-91-307.

(a) In the event that such public improvement district plan shall have been initiated by action of the governing body under § 7-91-302(b), such ordinance creating a public improvement district shall not be adopted if written protests are filed with the governing body prior to the public hearing from owners representing more than one half (1/2) of the assessed value of all the property to be included in the district.

(b) Failure of such ordinance by reason of protests having been filed by owners representing more than one half (1/2) of the assessed value of the property to be included in the district shall not bar the governing body from amending the district boundaries in such manner as to reduce the number of objectors to one half (1/2) or less of the assessed value of the district; provided, that a new public hearing shall be had on the amended district under the provisions established in § 7-91-306 for such public hearings, and all of the procedures and provisions established in this section shall be applicable to such second public hearing.

(c) The governing body shall be permitted to amend the district boundaries only once in order to permit the adoption of such ordinance, and no

petition shall be accepted nor resolution adopted by the governing body with respect to the same properties included in the original or amended proposed public improvement district for a period of twelve (12) months following the failure of passage of such ordinance.

7-91-308. The ordinance adopted by the governing body of the municipality shall include:

- (1) A description of the district;
- (2) A general description of the improvements to be constructed or established;
- (3) Authority to take any and all such action deemed necessary to establish a district under this chapter;
- (4) An estimate of the total cost of the improvements to be provided, including those to be furnished by the municipality;
- (5) Authorization of special assessments to be levied against the properties within the district, including any tax-exempt organizations within the district that signed the petition. An ordinance shall provide for the assessment of municipally-owned properties, if such determination is made by the governing body in accordance with § 7-91-319;
- (6) Whether there shall be an allocation of the total costs of the improvement between the general revenues of the municipality and special assessments levied against the property owners, and what such allocation shall be;
- (7) The time and manner in which special assessments authorized by this chapter shall be paid; and
- (8) The time, date and place that the hearing was held concerning the formation of the district.

7-91-309.

(a) The governing body of any municipality has all the powers necessary or convenient to undertake and carry out any or all improvements adopted in the ordinance setting up such district, including, but not limited to:

(1) Acquire any and all real or personal property by gift, purchase, or devise;

(2) Construct or install within the district, sidewalks, parks, decorative lighting, benches or other seating furniture, sculptures, traffic signs, fire hydrants, trash receptacles, marquees, awnings, canopies, walls and barriers, paintings, murals, alleys, fountains, rest rooms, tunnels and ramps, pedestrian and vehicular overpasses and underpasses, and similar improvement;

(3) Landscape and plant trees, bushes and shrubbery, flowers and each and every other kind of decorative planting within the district;

(4) Construct, reconstruct, enlarge and extend roads, and water supply mains, sewer and wastewater lines within the district;

(5) Acquire, construct, reconstruct, extend, maintain, or repair parking lots and parking garages, both above and below ground, or other facilities for the parking of vehicles, including the power to install such facilities in public areas, whether such areas are owned in fee or by easement; provided, that parking in such parking lots or parking garages shall be provided to the public without charge;

(6) Remove any existing structures or signs of any description in the district not conforming to the plan of improvements;

(7) Require any or all utilities servicing the district to lay such pipe, extend such wires, provide such facilities, or conform or modify

existing facilities to effectuate the plan of improvement for the district; the governing body shall determine what portion of the cost is to be borne out of general revenues of the municipality, what portion is to be paid from the special assessments hereinafter provided, and what portion is to be paid individually by the property owners within the district;

(8) To contract for the services of consultants for the plan of improvement to perform planning, engineering, financial, legal, or other appropriate services of a professional nature to form the district and implement the plan;

(9) To borrow money and issue bonds, certificates, warrants, notes or other evidences of indebtedness as provided in this chapter;

(10) To levy assessments as may be authorized, and to charge, collect and enforce fees and other such charges as provided in this chapter; and

(11) Do each and every and any thing necessary or desirable to effectuate the plan of improvement for the district of the municipality.

(b) The plan of improvements shall not include the construction of schools.

7-91-310. Upon the adoption of the ordinance, the municipality shall proceed to advertise for bids, let the contracts, and construct the improvements under the laws and regulations governing the construction of other improvements within the municipality: provided, that where no detailed plan of improvements has yet been prepared, the municipality shall employ architects and engineers for the drafting of such plan, and, upon approval of such plan, shall thereafter, and within six (6) months time, advertise for bids.

7-91-311.

(a) The municipality has the authority and power to borrow money and issue bonds, notes or other obligations for the purpose of paying the costs of public improvements made pursuant to the ordinance, or the refunding or refinancing of any such bonds, notes or obligations, under and pursuant to all the procedures and requirements set forth in title 9, chapter 21.

(b) The municipality shall pledge to the payment of principal of and premium and interest on such bonds, notes or other obligations, and use for the payment thereof, the special assessment revenues authorized to be collected by the municipality pursuant to this chapter in the same manner as revenues may be pledged pursuant to title 9, chapter 21.

(c) "Public works project," as contained in title 9, chapter 21, includes all public improvements made within the district and the proceeds of any such bonds, notes or other obligations may be used for any purpose for which bond proceeds may be used under title 9, chapter 21 other than the construction of schools.

(d) "Revenues," as contained in title 9, chapter 21, includes the special assessment revenues described in this chapter.

7-91-312.

(a) Except as otherwise expressly provided in this chapter, all bonds issued by a municipality under this chapter shall be payable solely out of the revenues and receipts derived from the district; provided, that notes issued in anticipation of the issuance of bonds may be retired out of the proceeds of such bonds. Such bonds may be executed and delivered by the municipality at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest, or both, may be payable in such installments and at such time or times

not exceeding thirty (30) years from the date of execution, may be payable at such place or places whether within or without the state of Tennessee, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, may be executed by such members of the governing body and may contain such provisions not inconsistent with this chapter, all as shall be provided in the proceedings of the governing body whereunder the bonds shall be authorized to be issued. If deemed advisable by the governing body, there may be retained in the proceedings under which any bonds of the municipality are authorized to be issued an option to redeem all or any part of the bonds as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited in the face of the bonds, but nothing contained in this subdivision (a) shall be construed to confer on the municipality any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the municipality may be sold at public or private sale in such manner, at such price and from time to time as may be determined by the governing body of such municipality to be most advantageous, and the municipality may pay all expenses, premiums and commissions the municipality's governing body may deem necessary or advantageous in connection with the issuance of the bonds. Issuance by the municipality of one (1) or more series of bonds for one (1) or more purposes shall not preclude the municipality from issuing other bonds in connection with public improvements within the same district or part of the same district, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Proceeds of bonds issued by the municipality may be used for



the purpose of constructing, acquiring, reconstructing, improving, equipping, furnishing, bettering, or extending any public improvements authorized under this chapter, including the payment of interest on the bonds during construction of any such public improvements and for two (2) years after the estimated date of completion, and payment of engineering, fiscal, architectural and legal expenses incurred in connection with such plan and public improvements and the issuance of the bonds, and the establishment of a reasonable reserve fund for the payment of principal of and interest on such bonds in the event of a deficiency in the revenues and receipts available for such payment.

(b) Any bonds or notes of the municipality at any time outstanding may at any time and from time to time be refunded by the municipality by the issuance of its refunding bonds in such amount as the governing body may deem necessary, but not exceeding the sum of the following:

- (1) The principal amount of the obligations being refinanced;
- (2) Applicable redemption premiums on the bonds;
- (3) Unpaid interest on such obligations to the date of delivery or exchange of the refunding bonds;
- (4) In the event the proceeds from the sale of the refunding bonds are to be deposited in trust as provided in subdivision (f)(2), interest to accrue on such obligations from the date of delivery to the first or any subsequent available redemption date or dates selected, in its discretion, by the governing body, or to the date or dates of maturity, whichever shall be determined by the governing body to be most advantageous or necessary to the municipality;
- (5) A reasonable reserve for the payment of principal of and interest on such bonds or a renewal and replacement reserve;

(6) If the project to be constructed from the proceeds of the obligations being refinanced has not been completed, an amount sufficient to meet the interest charges on the refunding bonds during the construction of such public improvements and for two (2) years after the estimated date of completion, but only to the extent that interest charges have not been capitalized from the proceeds of the obligations being refinanced; and

(7) Expenses, premiums and commissions of the municipality, including bond discounts, deemed by the governing body to be necessary for the issuance of the refunding bonds. A determination by the governing body that any refinancing is advantageous or necessary to the municipality, or that any of the amounts provided in the preceding sentence should be included in such refinancing, or that any of the obligations to be refinanced should be called for redemption on the first or any subsequent available redemption date or permitted to remain outstanding until their respective dates of maturity, shall be conclusive.

(c) Any such refunding may be effected whether the obligations to be refunded has then matured or thereafter matures, either by the exchange of the refunding bonds for the obligations to be refunded by the refunding bonds with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds and the application of the proceeds of the refunding bonds to the payment of the obligations to be refunded by the refunding bonds, and regardless of whether or not the obligations to be refunded were issued in connection with the same projects or separate projects, and regardless of whether or not the obligations proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

(d) If, at the time of delivery of the refunding bonds, the obligations to be refunded will not be retired or a valid and timely notice of redemption of the outstanding obligations is not given in accordance with the resolution, indenture or other instrument governing the redemption of the outstanding obligations, then, prior to the issuance of the refunding bonds, the governing body shall cause to be given a notice of its intention to issue the refunding bonds. The notice shall be given either by mail to the owners of all of the outstanding obligations to be refunded at their addresses shown on the bond registration records for the outstanding obligations or given by publication one (1) time each in the newspaper having a general circulation in the municipality with respect to which the district was organized and in a financial newspaper published in New York, New York, having a national circulation. The notice shall set forth the estimated date of delivery of the refunding bonds and identify the obligations, or the individual maturities of the obligations, proposed to be refunded; provided, that if portions of individual maturities are proposed to be refunded, the notice shall identify the maturities subject to partial refunding in the aggregate principal amount to be refunded within each maturity. If the issuance of the refunding bonds does not occur as provided in the notice, the governing body shall cause notice to be given as provided in this subsection (d). Except as otherwise set forth in this section, the notice required pursuant to this section shall be given whether or not any of the obligations to be refunded are to be called for redemption.

(e) If any of the obligations to be refunded are to be called for redemption, the governing body shall cause notice of redemption to be given in the manner required by the proceedings authorizing such outstanding obligations.

(f) The net proceeds from the sale of any refunding bonds shall be applied only as follows, either:

(1) To the immediate payment and retirement of the obligations being refunded; or

(2) To the extent not required for the immediate payment of the obligations being refunded, then such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, and to pay any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any surplus, including, without limitation, provision for the pledging of any such surplus to the payment of the principal of and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested in direct obligations of, or obligations the principal of and interest on which are guaranteed by the United States government, or obligations of any agency or instrumentality of the United States government, or in certificates of deposit issued by a bank or trust company located in the state of Tennessee, if such certificates shall be secured by a pledge of any of such obligations having any aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this subdivision (2) shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

(g) All such bonds, refunding bonds and the interest coupons applicable to the bonds are hereby made and shall be construed to be negotiable instruments.

7-91-313. Bonds issued under the authority of this chapter shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians and for all public funds of the state of Tennessee, including, but not limited to, the sinking funds of cities, towns, villages, counties, school districts, or other political corporations, or subdivisions of the state of Tennessee. Such bonds shall be eligible to secure the deposit of any and all public funds of the state of Tennessee, and any and all public funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the state of Tennessee, and such bonds shall be lawful and sufficient security for the deposits to the extent of their value when accompanied by all unmatured coupons appertaining to the bonds.

7-91-314. No person serving on the governing body of the municipality shall be personally liable for the bonds or be subject to any personal liability by reason of issuance thereof, or some other form of indebtedness, unless such person is grossly negligent, criminally negligent or engages in intentionally wrongful acts or omissions when he or she had a duty to act. All such bonds shall contain a statement on their face substantially to the effect that neither the full faith and credit of the state nor the full faith and credit of any governmental agency of the state are pledged to the payment of the principal of or the interest on such bonds.

7-91-315. The governing body of the municipality is hereby authorized to levy, according to the benefits received, and to collect in such manner as the governing body may determine to be proper, annual service or maintenance fees against the properties located within the district for the maintenance, upkeep, and repairs of all public

properties located within such district including, but not limited to, capital improvements, movable furniture or fixtures, and all trees, plants, and decorative plantings of each and every kind. Additionally, such fees may cover the cost of additional fire and police protection required for, or desired by, such district and all operating expenses of such special facilities provided in the district as are not charged by the governing body against the general revenues of the municipality.

7-91-316. The municipality is hereby authorized to levy special assessments against all real property within the district subject to taxation and the real property of owners not subject to such taxation, except those tax-exempt organizations that did not sign the petition, located within the district to cover all costs and expenses of each and every improvement constructed, or erected, or purchased and placed within such district, including all necessary incidental expenses. Such expenses may include all costs of construction, costs of making estimates and plans, feasibility studies, charges of engineers and attorneys, surveying, planning surveys, printing, advertising for bids, preparation of the assessment rolls, inspection and administrative expenses, abstracts and other title costs, construction interest, bond interest, necessary reserves, commissions paid to brokers or agents in connection with the sale of bonds issued by the municipality, and provision for additional costs or losses of assessment revenue for the development and construction of such improvements as are authorized by the municipal ordinance not contemplated at the time of the hearings on the organization of the district. The assessment herein authorized shall include all such costs even though some of the construction, engineering, inspection, and administrative or other services necessary are performed by the municipality.

7-91-317. The municipality may pay from its general revenues any part of the cost of the improvements to be paid. The municipality may also pledge its full faith and credit to the payment of any bond issued under the authority of this part.

7-91-318.

(a) In determining the benefits to each lot or parcel of property within the district, the governing body may consider frontage, area, the proportion that the assessed value of each lot or parcel bears to the whole assessed value of all properties within the district, or a combination of all of these. All assessments made by the governing body shall be presumed to have been made on the basis of the benefit conferred on each lot or parcel of property within the district, and shall be subject to review only as provided in this chapter.

(b) The fact that assessments may be spread uniformly over a large area within the district shall not be conclusive that such assessment was arbitrarily made or that the governing body made no attempt to distribute the costs of the improvements in proportion to the benefits received.

(c) The ordinance provided for in § 7-91-308 may contain a finding that the special benefit to all properties located within the district is uniformly commensurate with the assessed value of each property in such district, in which event the determination provided for in this section shall not be necessary, and the total costs of such improvements to be assessed against the owners of property in such district shall be assessed against each property in the same proportion that the assessed value of each such property bears to the assessed value of all such properties within the district.

7-91-319. The governing body of the municipality shall determine whether municipally-owned property located within the district shall be assessed in the same manner as private property, and, if it does so determine, shall provide for such assessments in the ordinance creating the district.

7-91-320. Municipal properties, which are not assessed for taxation by the municipality or the county in which the municipality is located, and which are to be

assessed for the purposes of this chapter, as provided in § 7-91-319 shall be specially assessed by the municipal assessor, or the county assessor if the municipality uses county property assessments, upon the request of the governing body, and the cost for making such assessments shall be borne by the district.

7-91-321.

(a)

(1) The governing body of a municipality shall, at the same time that the assessment of benefits is equalized or at any time thereafter, enter upon its records an order which shall have all the force of a judgment, providing that each year there shall be assessed upon the real property of the district an assessment sufficient to collect the debt service on the bonds, notes and other obligations issued by the municipality, with ten percent (10%) added for unforeseen contingencies. The assessment on each property shall be levied at one (1) time in the ordinance provided for in § 7-91-323. The governing body may provide in such ordinance levying the assessment that all or such portion of the assessment as is designated in the ordinance may be paid in equal installments over a period of time, not exceeding thirty (30) years from the effective date of the ordinance levying the installment.

(2) The assessment to be paid by the owners of real property in the district shall be in the proportion to the amount of the assessment of benefits thereon and shall be paid in annual installments and collected at the same time and in the same manner as ad valorem taxes on real property within the municipality are paid and collected, subject to the same penalties and same liens.

(b)



(1) The remedy against the levy of an assessment shall be by suit in chancery court.

(2) The suit must be brought within thirty (30) days from the time of notice that the levy was made, and on the appeal, the presumption shall be in favor of the legality of the assessment.

(c)

(1) The governing body of such municipality shall, promptly after entry of an order levying the assessment, publish once a week for two (2) consecutive weeks in some newspaper having general circulation in the district, a notice setting forth the order of levy and warning all persons affected thereby that it shall become final unless suit is brought to contest it within thirty (30) days of the date of first publication of the notice.

(2) No landowner of real property within the district shall be barred from contest of the levy within the thirty (30) day publication period.

7-91-322. Assessments shall not be made by the governing body until the conclusion and completion of all work and the ultimate determination of the total cost of the improvements in the district. In the event, however, that such assessments prove ultimately to be in excess of the total cost, the surplus of assessments may be rebated to the owners of the property assessed. The amount to be rebated to each property landowner shall be the proportion of the total rebate which the amount of the property landowner's assessment bears to the total amount of all assessments originally levied. The rebate may be applied as a prepayment of any unpaid amount of the assessment and any balance shall be paid to the landowner at the time the rebate is made of the property assessed. In the event that the totality of the assessment ultimately proves to be less than the total cost of all the improvements in the district, the municipality shall be

authorized to increase the assessment on each property by an amount equal to the percentage that the original assessment on each property bears to the total assessment, multiplied by the total additional assessment required of the district.

7-91-323.

(a) After all assessments have been determined by the governing body, the governing body shall prepare an assessment roll which shall show the location of the property, the landowner of the property as shown in the records of the municipal or county assessor, and the amount of the assessment. Such assessment roll shall be filed with the governing body of the municipality which shall open such roll to the public for a period of not less than ten (10) days.

(b) The governing body of the municipality shall set a date for a public hearing on the assessments and shall publish a notice of such public hearing in a newspaper of general circulation within the municipality, and shall also mail a copy thereof to each property landowner in the district as provided in § 7-91-105.

The notice shall set out:

(1) A summary of the ordinance creating the district;

(2) The fact that the assessments to pay for the improvements within such districts have been prepared and are on public display, setting forth the dates and times when they may be examined;

(3) Notice that an ordinance adopting such assessments will be passed on final reading within ten (10) days following the conclusion of the public hearing; and

(4) Notice of the date, time, and place of public hearing and that all objections to the amount of the assessments levied will be heard at such public hearing.

7-91-324.

(a) The governing body shall then consider the assessments and may amend the same or affirm it and shall adopt an ordinance incorporating such assessments as amended.

(b) Such assessment shall be final and conclusive upon all parties interested, and may be reviewed only as provided by title 27, chapter 9, except that the petition referred to in § \_\_\_\_\_ shall be filed within thirty (30) days from the date of passage of such ordinance.

7-91-325.

(a) The governing body of a municipality shall, at the same time that the assessment of benefits is equalized or at any time thereafter, enter upon its records an order which shall have all the force of a judgment, providing that each year there shall be assessed upon the real property of the district an assessment sufficient to collect the debt service on the bonds, notes and other obligations issued by the municipality, with ten percent (10%) added for unforeseen contingencies. The assessment on each property shall be levied at one (1) time in the ordinance provided for in § 7-91-318. The governing body may provide in such ordinance levying the assessment that all or such portion of the assessment as is designated in the ordinance may be paid in equal installments over a period of time, not exceeding thirty (30) years from the effective date of the ordinance levying the installment.

(b) The assessment to be paid by the owners of real property in the district shall be in the proportion to the amount of the assessment of benefits thereon and shall be paid in annual installments and collected at the same time and in the same manner as ad valorem taxes on real property within the municipality are paid and collected, subject to the same penalties and same liens.

(1) The remedy against the levy of an assessment shall be by suit in chancery court.

(2) The suit must be brought within thirty (30) days from the time of notice that the levy was made, and on the appeal, the presumption shall be in favor of the legality of the assessment.

(c)

(1) The governing body of such municipality shall, promptly after entry of an order levying the assessment, publish once a week for two (2) consecutive weeks in some newspaper having general circulation in the district, a notice setting forth the order of levy and warning all persons affected thereby that it shall become final unless suit is brought to contest it within thirty (30) days of the date of first publication of the notice.

(2) No owner of real property within the district shall be barred from contest of the levy within the thirty (30) day publication period.

7-91-326. All money paid in to the municipality in payment of the district assessments and interest thereon shall be deemed to be a part of and constitute a separate fund for the payment of the cost and expenses of making the improvements in the district, for the payment of interim warrants and special improvement bonds with interest thereon issued against the district created to make the improvements, and for no other purposes. The fund so created shall be held in the custody of the treasurer or other such official of the municipality, kept intact and separate from all other funds and moneys of the municipality and shall be paid out only for the purposes specified in this chapter and as provided in the ordinance creating the district. Such fund may be invested by the municipality in the same manner as provided for the investment of other funds of the municipality.

7-91-327. A district may not be dissolved if the municipality has outstanding any bonds, notes or other obligations payable solely from the special assessment revenues levied on the property within the district, and such dissolution may occur only at such time as all such indebtedness has been repaid in full or the municipality pledges to the payment of such indebtedness its full faith and credit and unlimited taxing power.

#### SECTION 5.

7-91-401. This part shall apply to the collection of assessments levied pursuant to parts 2 and 3 of this chapter.

7-91-402.

(a) The governing body may determine by resolution to permit assessments to be paid in installments.

(b) Installments may be payable at least annually, but may be payable at more frequent intervals as provided by the ordinance levying the assessment, and the governing body shall determine the method of collection.

(c) Where the assessment is payable in installments, the ordinance may provide that the unpaid balance of the assessment from time to time shall bear interest at a rate or rates from the effective date of such ordinance or from such other date as may be specified therein until due. Interest may be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the ordinance levying the assessment.

7-91-403.

(a) Assessments payable in installments may be paid prior to the due date of any such installment.

(b) The whole or any part of the assessment may be paid without interest within ninety (90) days after the ordinance levying the assessment becomes

effective. If the assessment is paid in part, the unpaid balance shall be payable in substantially equal installments over the period of time installments are payable as provided in the assessment ordinance.

(c) After such sixty-day period and if the ordinance levying the assessment so provides, all unpaid installments of assessments levied against any piece of property (but only in their entirety) may be paid prior to the dates on which they become due, but any such prepayment must include an additional amount equal to the interest which would accrue on the assessment to the next succeeding date on which interest is payable on any special improvement bonds issued in anticipation of the collection of the assessment, plus such additional amount as, in the opinion of the governing body of the municipality, is necessary to assure the availability of money to pay interest on the special improvement bonds as interest becomes due, and any premiums which may become payable on redeemable bonds which may be called in order to utilize the assessment thus paid in advance.

(d) The governing body may allow, in its discretion, discounts for prepayment of assessments, or installments thereof, providing such discounts do not impair the ability of the municipality or district fully to fund the bonds issued in pursuance of the authority granted by this chapter.

7-91-404. When an assessment is payable in installments, default in the payment of any installment of principal or interest when due shall cause the whole of the unpaid principal and interest to become due and payable immediately, and the whole amount of the unpaid principal shall thereafter draw interest at the rate of one percent (1%) per month until paid, but, at any time prior to the date of sale in proceedings to enforce the lien thereof, the landowner may pay the amount of all unpaid installments past due, with interest at the rate of one percent (1%) per month to date of payment on

the delinquent installments, and all proper costs, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not occurred.

7-91-405. An assessment, any interest accruing on the assessment, and the costs of collection of the assessment shall constitute a lien on and against the landowner's real property in the district upon which the assessment is levied on the effective date of the ordinance levying the assessment, which lien shall be entitled to preference and superior over all demands, executions, to the lien of any trust deed, mortgage, mechanic's or material supplier's lien, or other encumbrance, except those of the state, county, or municipality for taxes. Such lien shall, however, run with the land and survive any sale of the property for or on account of any unpaid taxes, and may be enforced by attachment and sale in bar of the equity of redemption, except as provided in § 7-91-406, in the chancery court or in any other lawful manner; provided, however, with the prior written approval of the governing body of the municipality, the county clerk shall release from the lien of the assessment and tax any lot, block, or tract with respect to which the assessment and tax shall have been paid or prepaid.

7-91-406. In case any assessment shall become or has become delinquent and the property subject thereto has been or shall be sold to the municipality therefore, redemption of such property shall be permitted upon payment, not later than twelve (12) months after the date of sale, of the full amount due plus interest, any taxes paid by the municipality, and accrued costs and redemption fees as may be prescribed by ordinance of the municipality, unless in the judgment of the governing body of the municipality, the interest of the municipality will be subserved by accepting a less sum in settlement therefore.

7-91-407. In case of failure to pay any assessment, or installment, on or before the date prescribed by the governing body for such payment there shall

be added to the assessment a penalty of one-half percent ( $\frac{1}{2}$  %) per month of the amount of such assessment or installment.

SECTION 6. This act shall take effect July 1, 2011, the public welfare requiring it.